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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,622	11/09/2001	Giacomo Stefano Roba	05788.0189	5933
22852	7590	03/18/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER HOFFMANN, JOHN M	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			03/18/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/986,622

Applicant(s)

ROBA ET AL.

Examiner

John Hoffmann

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-37, 40-45 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-37, 40-45 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-84C)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

In the Pre- Appeal Brief Conference it was determined that Applicant was not adequately informed of the basis for the rejection of claim 51. Examiner apologizes for this deficiency.

This Office action is based on the claims filed 7/31/2007. The amendment filed 12/13/2007 could not be entered because it was not compliant with either 37 CFR 1.121 or 1.4. As indicated in the Advisory Action of 12/19/2007 the amendment was deficient for failing to have proper markings and/or status identifier.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "102" has been used to designate both a fiber (figure 10) and part of a support member (figure 4). One can also see other such numbering problems with figure 10. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 34-37 and 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson 2002/0029591 (or Harvey 5284499) in view of Kazuya JP 08091862 (as per Applicant's translation thereof), Strackenbrock 5160359, and Bair 4547644 and optionally in view of Harding 4988374 and Kaiser 4030901.

See the prior Office action for the manner in which the combination of references would have all of the limitations of the claims.

Claim 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson 2002/0029591 (or Harvey 5284499) in view of Kazuya JP 08091862 (as per Applicant's translation thereof), Strackenbrock 5160359, Harding 4988374 and Bair 4547644 and optionally in view of and Kaiser 4030901.

See the prior Office actions as to how the references were combined in the treatment of the other claims (e.g. claim 34). The present claims fail to define over that combination.

In more detail:

Dickinson (at figure 1) and Harvey (at figure 2, col. 4, lines 60-68 and col. 5, lines 4-10) disclose a furnace body having an upper end and a lower end and comprising at least a susceptor, an induction coil and an insulating material disposed between said susceptor and said induction coil. However the bottom portions and distributor bodies of Dickinson and Harvey are not of the specific type require by the claims. They also clearly show the muffle as claimed.

Kazuya teaches that using the tapered shape structure (that appears to be the same or nearly the same as Applicant's bottom chimney) decreases fluctuations in the outer diameter of the preform. It would have been obvious to use the Kazuya teaching to improve the Dickinson or Harvey apparatus, for the advantages that Kazuya teaches. See previous rejections.

Bair is cited to reinforce Kazuya – See col. 7, lines 4-6 which teaches that a conical shaped extension also will reduce air drafts.

As to the a distributor body having a substantially annular distribution chamber (See Harding's feature 14), a distribution ring (see the ring on which Harding's 14 rests), and an outlet in fluid communication with an interior of the muffle(see Harding's features 13 and 8a), the distributor body configured to receive conditioning gas (see feature 15 of Harding) substantially tangentially with respect to the substantially annular distribution chamber, the distribution ring being adapted to uniformly introduce and forcedly direct a first portion of the conditioning gas into the muffle in a downward direction towards said furnace body and to direct a second portion of the conditioning gas to an upper portion of the substantially annular distribution chamber to create a buffer of conditioning gas having a pressure higher than a pressure outside the drawing furnace. These functional limitations related to the flow of gas are inherently capable of being met, depending upon the operating conditions being used.

Harding teaches various advantages for using the distributor (cols. 1-2) and most notably "far better utilization" (col. 1, lines 54-55). It would have been obvious to use the Harding distributor to far better utilize the Harvey or Dickenson apparatus. It would

have been obvious to provide inlets to permit tangential introduction of gas as taught by Strackenbrock for even distribution of gas as previously indicated.

It is noted that any and all reference to prior Office actions are meant to reflect the claimed invention - NOT THE CLAIMS THEMSELVES. In other words: the various versions of presented claims throughout prosecution merely use different words to cover substantially the same features. That is: the "furnace body" of claim 51 has no discernable difference between the other furnace bodies previously claimed. The same applies to the muffle, the bottom portion, the distributor body and the functional limitations. As shown by the art of record (especially the art applied throughout the prosecution) all of these features were already known to those of ordinary skill for substantially the same advantages that applicant discloses.

Claims 34-37, and 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson 2002/0029591 (or Harvey 5284499) in view of Kazuya JP 08091862 (as per Applicant's translation thereof), Bair 4547644, and Miller 4678490 and optionally in view of Harding and Kaiser 4030901.

See the prior Office action for the manner in which the combination of references would have all of the limitations of the claims.

Response to Arguments

Applicant's arguments filed 31 July 2007 and 12/13/2007 were persuasive. The rejection did not reasonably inform applicant as to the basis for the rejection of claim 51.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (571) 272 1191. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Hoffmann
Primary Examiner
Art Unit 1791

Jmh

/John Hoffmann/
Primary Examiner, Art Unit 1791

